

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 412 - HB 1588

March 25, 2021

SUMMARY OF BILL: Allows a court to issue an extreme risk protection order upon a finding by clear and convincing evidence that a person poses a significant risk of harm to the person or others if allowed to possess or purchase a firearm. Requires local law enforcement to ensure a person subject to an extreme order of protection has complied with any dispossession of firearms requirement. Authorizes a law enforcement officer or family or household member to petition for such an order. Creates a Class E felony offense for the violation of such order.

Requires each clerk of court to report to the Administrative Office of the Courts (AOC) certain information each January 31, beginning January 31, 2023. Effective January 1, 2022.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$282,100 Incarceration*
\$187,700/FY21-22
\$100,000/FY22-23 and Subsequent Years

Assumptions:

- Pursuant to Tenn. Code Ann. § 36-3-625(a), upon issuance of an order of protection the respondent is required to dispossess firearms by any lawful means, such as transferring possession to a third party who is not prohibited from possessing firearms. The respondent is prohibited from possessing a firearm for so long as the extreme order of protection or any successive order of protection is in effect, and may reassume possession of the dispossessed firearm at such time as the order expires or is otherwise no longer in effect.
- Statistics from the AOC's 2019-2020 Annual Statistical Report show 8,505 petitions for order of protections filed.
- The totality of petitions for an order of protection filed in other courts is unknown.
- Approximately 10.4 percent of Tennessean are registered handgun owners.
- It is estimated that 885 (8,505 x 10.4%) of current orders of protections sought would be considered an extreme order of protection and affected under the proposed legislation.
- It is estimated that most law enforcement agencies will be able to absorb the additional workload within existing resources and personnel.

- According to the U.S. Department of Mental Health Services; Substance Abuse and Mental Health Services Administration, in their 2018-2019 National Survey on Drug use and Health, approximately 281,000 Tennesseans suffer from a serious mental illness.
- Approximately 10.4 percent of Tennessean are registered handgun owners.
- It is assumed that at least half, or 5.2 percent of Tennesseans with a serious mental health issue own a firearm, or 14,612 ($281,000 \times 5.2\%$).
- Of these, it is assumed that 1 percent, or 146 ($14,621 \times 1\%$), would be issued an order of Extreme Risk Protection and have their firearms and ammunition removed, of which, 10 percent, or 15 ($146 \times 10\%$), are estimated to violate the order.
- According to the DOC, the average operating cost per offender per day for calendar year 2021 is \$80.46.
- The average time served for a Class E felony is 0.60 years (219.15 days).
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.80 percent per year for each of the past 10 years (from 2009 to 2019), yielding a projected compound population growth rate of 8.3 percent. Assuming Tennessee's population continues growing by the same rates over the next 10-year period, population growth will account for 1.2 ($15 \times 8.3\%$) additional admissions for a total of 16 ($15 + 1.2$).
- Pursuant to Tenn. Code Ann. § 9-4-210, 15 offenders will be admitted every year serving 219.15 days. The annualized increase in state incarceration expenditures is estimated to be \$282,125 ($\$80.46 \times 219.15 \times 16$).
- the language of this legislation, the AOC is required to develop a petition for an extreme risk protection order, an ex parte extreme risk protection order, an extreme risk protection order, instructions and informational brochures for completing a petition, and a court staff handbook on the extreme risk protection order process. Materials must be available in English and any other language of a significant non-English speaking population in this state. The AOC can develop and distribute materials utilizing existing resources and personnel.
- This legislation requires the AOC to compile and publish statistics from the clerk. The required data would have to be recorded in an entirely new system outside of TnCIS in order to compile and publish statistics as required. This will necessitate creating an application, which is estimated to cost \$187,697 to design, build, test, and train in FY21-22. The annual maintenance will result in an increase in state expenditures of approximately \$100,000 in FY22-23 and subsequent years.
- Any increase in caseloads to courts can be accommodated within existing resources without an increased appropriation or reduced reversion.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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